

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RHAKIEEM SEWER,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,  
Defendant.

1:23-cv-00700 (JLR)

**SCHEDULING ORDER**

JENNIFER L. ROCHON, United States District Judge:

Through a notice of electronic filing, the Court shall notify the Commissioner of the Social Security Administration through its Office of General Counsel and the U.S. Attorney's Office for the Southern District of New York of the filing of this *pro se* case, brought pursuant to 42 U.S.C. § 405(g), for which the filing fee has been waived. In accordance with this District's Standing Order governing *pro se* challenges to denials of social security benefits (*see In re: Briefing of Social Security Cases*, 22-MC-00329 (LTS), M 10-468), the following briefing schedule applies:

- **Within 60 days of service**, the Commissioner must serve and file the Electronic Certified Administrative Record (e-CAR), which will constitute the Commissioner's answer, or otherwise move against the complaint.
- If the Commissioner wishes to file a motion for judgment on the pleadings, the Commissioner must do so **within 30 days** of the date on which the e-CAR was filed. The motion must contain a full recitation of the relevant facts and a full description of the underlying administrative proceeding.
- The plaintiff must file an answering brief **within 30 days** of the filing of the Commissioner's motion.
- The Commissioner may file a reply **within 14 days** thereafter.
- Generally, memoranda in support of or in opposition to any dispositive motion may not exceed 25 pages in length; reply memoranda may not exceed ten pages in length. A party seeking to exceed these page limitations must apply to the Court for leave to

do so, with copies to all counsel, no fewer than seven days before the date on which the memorandum is due.

In addition, by separate Order today, the Court is referring this case to the assigned Magistrate Judge for a report and recommendation on any motion for judgment on the pleadings. Magistrate Judges are judges selected by the District Judges to serve for terms of eight years. Magistrate Judges are highly qualified and very experienced.

To conserve resources, to promote judicial efficiency, and in an effort to achieve a faster disposition of this matter, it is hereby ORDERED that the parties must discuss whether they are willing to consent, under 28 U.S.C. § 636(c), to conducting all further proceedings before the assigned Magistrate Judge. If the parties consent to having the Magistrate Judge decide the case, the Magistrate Judge replaces the District Judge, thereby speeding up the resolution of the case (because only one judge instead of two will be involved in the case). Any appeal from a Magistrate Judge's decision following consent is directly to the United States Court of Appeals for the Second Circuit in the same way that an appeal from a District Judge's decision would be taken. By contrast, if the parties do not consent to having the Magistrate Judge decide the case, the Magistrate Judge will first issue a Report and Recommendation, and the District Judge will then consider any objections either party has to the Report and Recommendation before a final judgment is entered, at which point an appeal to the Second Circuit could be taken.

If both parties consent to proceed before the Magistrate Judge, counsel for Defendant must, **within two weeks of the date on which Defendant enters an appearance**, file on ECF a fully executed Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form, a copy of which is attached to the Order of Reference (and also available at <https://www.nysd.uscourts.gov/node/754>). If the Court approves that form, all further proceedings will then be conducted before the assigned Magistrate Judge rather than before the


undersigned. An information sheet on proceedings before magistrate judges is also attached to the Order of Reference.

If you do not consent to having the Magistrate Judge decide your case, there will be no adverse consequences. If either party does not consent to conducting all further proceedings before the assigned Magistrate Judge, the parties must file a joint letter, **within two weeks of the date on which Defendant enters an appearance** advising the Court that the parties do not consent, **but without disclosing the identity of the party or parties who do not consent.**

The Clerk of the Court is directed to mail a copy of this Order to Plaintiff.

Dated: March 8, 2023  
New York, New York

SO ORDERED.

  
\_\_\_\_\_  
JENNIFER L. ROCHON  
United States District Judge